

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JENEEN BROWN, individually and)
as a representative of the)
Classes,)
)
 Plaintiff,)
) 1:14cv195
 v.)
)
DELHAIZE AMERICA, LLC, and)
FOOD LION, LLC,)
)
 Defendants.)

ORDER ON PRELIMINARY APPROVAL OF CLASS SETTLEMENT

Before the court is the unopposed motion of Plaintiff Jeneen Brown for preliminary approval of class settlement, certification of settlement classes, appointment of class counsel, appointment of class representative, approval of class notice, and scheduling of a final fairness hearing. (Doc. 64.) The court has considered Plaintiff's unopposed motion, proposed settlement agreement (Doc. 65-2), and the entire record of this case. The motion will be granted, and the court hereby orders as follows.

1. Incorporation of Definitions. This Order incorporates by reference the definitions set forth in the motion for preliminary approval and the proposed settlement agreement

(Docs. 64, 65, 65-2), and all terms used herein shall have the same meaning as set forth in those filings.

2. Preliminary Approval of Proposed Settlement. The Agreement, including all exhibits thereto, is preliminarily approved as fair, reasonable, adequate, and within the range of reasonableness for preliminary settlement approval. The court preliminarily finds that the Agreement resulted from extensive arm's length negotiations, and is sufficient to warrant notice of the Settlement to persons in the Settlement Classes and a full hearing on the approval of the Settlement.

3. Class Certification for Settlement Purposes Only. The parties seek certification of two settlement classes based on Rule 23(b)(3) of the Federal Rules of Civil Procedure. Pursuant to Rule 23(c), the court conditionally certifies, for settlement purposes only, the following Settlement Classes:

Improper Disclosure Class: All Delhaize subsidiary employees and job applicants in the United States, except for employees and job applicants of Hannaford, who were the subject of a consumer report that was procured by Delhaize from March 7, 2012 through the date on which the Class List is generated.

Pre-Adverse Action Notice Class: All Delhaize subsidiary employees and job applicants in the United States against whom adverse employment action was taken based, in whole or in part, on information contained in a consumer report from March 7, 2012 through the date on which the Class List is generated.

In connection with this conditional certification, the court makes the following preliminary findings for settlement purposes only:

A. The Settlement Classes appear to be so numerous that joinder of all members is impracticable;

B. There appear to be questions of law or fact common to the Settlement Classes for purposes of determining whether this Settlement should be approved;

C. Plaintiff's claims appear to be typical of the claims being resolved through the proposed settlement;

D. Plaintiff appears to be capable of fairly and adequately protecting the interests of the Settlement Class Members in connection with the proposed settlement;

E. Common questions of law and fact appear to predominate over questions affecting only individual persons in the Settlement Classes. Accordingly, the Settlement Classes appear to be sufficiently cohesive to warrant settlement by representation; and

F. Certification of the Settlement Classes appears to be superior to other available methods for the fair and efficient resolution of the claims of the Settlement Classes.

4. Class Counsel. Based on the considerations in Rule 23(g), the court appoints Nichols Kaster, PLLP as Class Counsel for both Settlement Classes.

5. Class Representative. Based on the findings above, the court appoints Plaintiff Jeneen Brown as Class Representative for both Settlement Classes.

6. Class Notice. The parties' Class Notice is approved for distribution in accordance with the schedule included in the Settlement Agreement.

7. Initial Motion for Fees and Expenses. Pursuant to Rule 23(h), Class Counsel is directed to file an initial motion for attorney fees and expenses, including the projected amount and justification, prior to mailing the Class Notice.

8. Opt-Outs and Objections. Class Members shall have the right to either opt-out or object to this settlement pursuant to the procedures and schedule included in the Settlement Agreement.

9. Final Approval Hearing. A Final Approval Hearing is set for July 20, 2015 at 9:00 a.m. in Courtroom #2, 251 N. Main Street, Winston-Salem, North Carolina.

IT IS SO ORDERED.

/s/ Thomas D. Schroeder
United States District Judge

March 27, 2015